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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,501	11/12/2003	Dave Humphreys	29953-187827	4758
26694	7590	04/06/2007		
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER MCDOWELL, SUZANNE E	
			ART UNIT	PAPER NUMBER
			1732	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/705,501

Applicant(s)

HUMPHREYS ET AL.

Examiner

Suzanne E. McDowell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,8,9,12,13,17,19,20,23-25 is/are rejected.
- 7) ☒ Claim(s) 3-5,7,10,11,14-16,18,21 and 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is confusing because claim 23 already claims more than one cavity

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6, 8, 9, 12, 13, 17, 19, 20, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobson (US Patent RE 23,564). Hobson teaches a method and apparatus with pinch-off members (21,22) slidably mounted in respective mold members (13, 14), which operate to pinch-off excess plastic between the container bottoms (column 4, lines 55-65, and see Figs. 5-8), and have recessed inner ends (21a, 22a), which would result in protrusions. Hobson additionally teaches another embodiment with pinch bars (9, 10) and plungers (7, 8) mounted in respective sections (a, b) of mold halves (5, 6). Hobson does not teach that there are two sets of pinch bars. Hobson does teach a second set of slidable members in the alternate embodiment, where the members operate to punch holes (7, 8). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus

and method taught by Hobson by having the second set of members also be pinch bars, in order to form the desired finished product, i.e., one without holes.

Regarding claims 6, 12, 13, and 17, Hobson shows the claimed configurations (See Fig. 5).

Regarding claims 8, 9, 19, and 20, Hobson shows that pinch bars (9, 10) are mounted in apertures (See Fig. 1; 9a, 10a), in their respective mold halves (5, 6).

Regarding claim 23, Hobson does not teach that the pinch bars operate by moving the mold halves toward each other. The pinch bars taught by Hobson are recessed in the mold and move slidably to pinch. If the pinch bars were advanced before the mold halves closed, they would operate by movement of the mold halves. Hobson specifies that the pinch bars are "normally retained in their retracted positions" but does not teach that they must be recessed (column 4, lines 55-65) when the mold halves are closing.

Allowable Subject Matter

5. Claims 3-5, 7, 10, 11, 14-16, 18, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chittenden et al. (US Patent 3,428,722); and Ogawa (US Patent 6,660,217).

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on Tuesday-Friday 7am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Suzanne E. McDowell', with a stylized, cursive script.

Suzanne E. McDowell
Primary Examiner
Art Unit 1732

SEM
March 8, 2007